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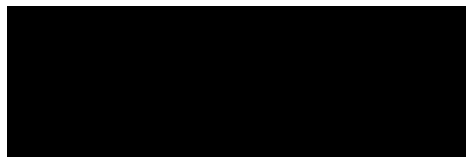
U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



U.S. Citizenship
and Immigration
Services

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FILE:



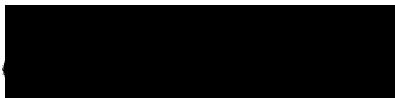
Office: LOS ANGELES

Date:

IN RE:

Obligor:

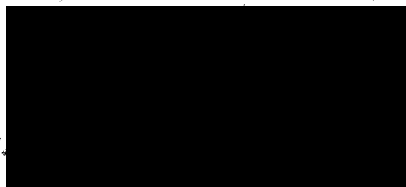
Bonded Alien:



IMMIGRATION BOND:

Bond Conditioned for Voluntary Departure under § 240B of the Immigration and Nationality Act, 8 U.S.C. § 1229c

ON BEHALF OF OBLIGOR:



**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Mari Johnson

for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The voluntary departure bond in this matter was declared breached by the District Director, Los Angeles, California, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on December 1, 1998, the obligor posted a \$500.00 bond conditioned for his voluntary departure. An order of the immigration judge (IJ) dated November 25, 1998, was issued granting the alien voluntary departure in lieu of removal on or before January 25, 1999. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On April 22, 2002, the BIA affirmed, without opinion the IJ's decision, and granted the alien voluntary departure within 30 days from the date of the order. Subsequently, the alien petitioned the 9th Circuit Court of Appeals for review of the BIA's decision, and filed a motion to stay removal. On August 19, 2002, the 9th Circuit Court of Appeals denied the alien's motion for a stay of removal. On September 13, 2002, the 9th Circuit Court of Appeals dismissed the alien's petition for review. On June 9, 2003, the district director concluded the bond had been breached. The alien has failed to depart.

On appeal, counsel asserts that the 9th Circuit Court of Appeals issued a stay of removal on May 16, 2002. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. See Matter of Treasure Craft of California, 14 I&N Dec. 190 (Reg. Comm. 1972).

An appeal to the federal court of appeals does not stay the execution of the removal order unless the court orders otherwise. Section 242(b)(3)(B) of the Immigration and Nationality Act (the Act) 8 U.S.C. § 1252(b)(3)(B). There is no evidence of record to indicate that the 9th Circuit Court of Appeals has stayed the bonded alien's removal. Moreover, the underlying appeal was dismissed by the court of appeal prior to the date the district director declared the bond breached.

The regulation at 8 C.F.R. § 1240.26(c)(3) provides that in order for the voluntary departure bond to be canceled, the alien must provide proof of departure to the field office director.

No satisfactory evidence has been introduced into the record to establish the alien made a timely departure. The service of a notice to surrender or the presence of a certified mail receipt is not required in voluntary departure bond proceedings.

Voluntary departure bonds are exacted to ensure that aliens will depart when required in lieu of removal. Such bonds are necessary in order for ICE to function in an orderly manner. After a careful review of the record, it is concluded that the alien failed to depart by the stipulated time, the conditions of the bond have been substantially violated, and the collateral has been forfeited. The decision of the district director will not be disturbed.

ORDER: The appeal is dismissed.